

JS 44 (Rev. 08/18)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Robert Ashley Roberts and
Melanie Woodward Roberts

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Michael C. Niemeyer, Hand Arendall
Harrison Sale, LLC, 71 N. Section St Suite B
Fairhope, AL 36532 251.990.0734

DEFENDANTS

Carter Hill Construction, LLC
Joseph Carter Hill

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Lloyd N. Shields
Alexander R. Saunders
Irwin Fritchie Urquhart Moore & Daniels LLC
400 Poydras Street
Suite 2700
New Orleans, LA 70130
504.310.2100

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC 1332

Brief description of cause:

Construction contract dispute

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

612,199.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

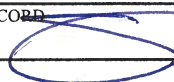
JUDGE

DOCKET NUMBER

DATE

12/10/24

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA**

**ROBERT ASHLEY ROBERTS and
MELANIE WOODWARD ROBERTS**

Plaintiffs,

v.

**CARTER HILL CONSTRUCTION, LLC;
and JOSEPH CARTER HILL**

Defendants.

CIVIL ACTION NO. 24-460

JUDGE

MAGISTRATE JUDGE

NOTICE OF REMOVAL

To: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA

Pursuant to 28 U.S.C. § 1332, 1441, and 1446, Defendants Carter Hill Construction, LLC, and Joseph Carter Hill (hereinafter, collectively “CHC”) remove the action captioned *Robert Ashley Roberts and Melanie Woodward Roberts v. Carter Hill Construction, LLC, and Joseph Carter Hill*, Case No. 05-CV-2024-901674.00, from the Circuit Court of Baldwin County, State of Alabama (“the State Court Action”) to the United States District Court for the Southern District of Alabama. As grounds for removal, CHC states as follows:

1.

Venue is proper in this Court because it is the district court for the district in which the State Court Action is pending. 28 U.S.C. § 1442(a).

2.

Plaintiffs, Robert Ashley Roberts and Melanie Woodward Roberts, commenced an action against CHC in the Circuit Court of Baldwin County, State of Alabama, entitled *Robert Ashley*

Roberts and Melanie Woodward Roberts v. Carter Hill Construction, LLC, and Joseph Carter Hill, Case No. 05-CV-2024-901674.00. The complete record of the State Court Action is attached as **Exhibit A**.

3.

As more fully set forth below, this case is properly removed to this Court pursuant to 28 U.S.C. § 1441 because CHC has satisfied the procedural requirements for removal, and this Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332.

REMOVAL IS TIMELY AND PROCEDURALLY PROPER

4.

Federal statute provides that “[e]ach defendant shall have 30 days after receipt by or service on that defendant of the initial pleading or summons . . . to file [a] notice of removal.” 28 U.S.C. § 1446(b)(2)(B). Counsel for CHC agreed to accept service of the State Court Action on November 21, 2024. This removal is, therefore, timely under 28 U.S.C. § 1446.

5.

CHC has not made an appearance in the State Court Action. *See* Exhibit A. No previous application has been made for the request in this Notice.

6.

The Circuit Court for Baldwin County is located within the Southern District of Alabama. 28 U.S.C. § 98(c). Therefore, venue is proper because the Southern District is the “district and division embracing the place where such action is pending.” *See* 28 U.S.C. § 1441(a).

7.

Pursuant to 28 U.S.C. § 1446(d), CHC is filing a written notice of this removal with the Circuit Court for Baldwin County, which along with this Notice, is also being served upon Plaintiffs' counsel.

8.

By filing this Notice of Removal, CHC does not waive, either expressly or implicitly, its right to assert any defenses available under state and/or federal law, including but not limited to the defenses of lack of personal jurisdiction and improper service of process. All such defenses are expressly reserved and preserved.

9.

As detailed below, this Court has subject-matter jurisdiction pursuant to 28 U.S.C. § 1332 because this is a civil action (a) between citizens of a State and citizens or subjects of a foreign state and (b) the amount in controversy exceeds \$75,000, exclusive of costs and interest, as alleged by Plaintiffs in Paragraphs 13, 19, and 22 in their Petition.

THERE IS COMPLETE DIVERSITY AMONG THE PARTIES

10.

Whether diversity exists in an action is determined by looking at the citizenship of each party at the time the petition was filed. Here, there is complete diversity among the properly joined parties in the case.

11.

Plaintiffs are citizens of and are domiciled in Alabama.

12.

Defendant Carter Hill Construction, LLC, is a limited liability company organized under the laws of Louisiana with its principal place of business in Louisiana, thus being a citizen of Louisiana. *See* 28 U.S.C. § 1332(c)(1). Joseph Carter Hill is a natural person who is a citizen of Louisiana.

13.

Accordingly, there is complete diversity between Plaintiffs and Defendants.

THE AMOUNT-IN-CONTROVERSY REQUIREMENT IS SATISFIED

14.

In the State Court Action Plaintiffs set forth allegations seeking damages in excess of \$75,000.00. *See* Exhibit A, Pet. at paragraphs 13, 19, and 22.

15.

Accordingly, the amount-in-controversy requirement is satisfied in this case. *See* 28 U.S.C. § 1332(b).

CONCLUSION

With this Notice, CHC is filing a “copy of all process, pleadings, and orders served upon” them in the State Court Action. 28 U.S.C. §§ 1446(a), (d). In addition, written notice is being given to all adverse parties, and a copy of this Notice is being filed with the Clerk of the Circuit Court for Baldwin County, State of Alabama.

For the foregoing reasons, Defendants Carter Hill Construction, LLC and Joseph Carter Hill pray that this action be removed from the Circuit Court for Baldwin County, State of Alabama, to the United States District Court for Southern District of Alabama, and that this Court assume full jurisdiction over the case as provided by law.

Respectfully submitted:

/s/ Lloyd N. Shields

Lloyd N. Shields (La. Bar No. 12022)
Alexander R. Saunders (La. Bar No. 28753)
IRWIN, FRITCHIE, URQUHART,
MOORE & DANIELS, L.L.C.
400 Poydras Street, Suite 2700
New Orleans, Louisiana 70130
Telephone: (504) 310-2100
Telecopy: (504) 310-2101

***Attorneys for Carter Hill Construction, LLC
and Joseph Carter Hill***